

REMARKS

Applicant is in receipt of the Office Action mailed June 11, 2007. Claims 76-114 were rejected. Claims 76-78, 82-83, 86, 94-97, 103, and 113-114 have been amended. Claims 87 and 108 have been canceled. Claims 76-86, 88-107, and 109-114 remain pending in the application. Reconsideration of the case is earnestly requested in light of the following remarks.

Section 112 Rejections

Claims 86 and 103 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses these rejections.

Claims 86 and 103 have been amended to recite, “wherein the control comprises a software component constructed in accordance with ActiveXTM specification”. Thus, the subject matter being claimed is the limitation that the control comprises a software component constructed in accordance with an ActiveXTM specification.” It is well known in the art that any software application developer can construct a software component constructed in accordance with an ActiveXTM specification. Thus, the claim language does not identify a source of the control but instead identifies a type of control. Applicant respectfully submits that the above-recited limitations are sufficiently precise and definite to be made part of a claim.

Section 103 Rejections

Claims 76-90 and 92-95 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,401,220 to Grey et al. (hereinafter “Grey”) in view of U.S. Patent No. 5,485,617 to Stutz (hereinafter “Stutz”). Applicant respectfully traverses these rejections.

Claim 76

Amended independent claim 76 recites in pertinent part:

configuring a binding between the GUI element and the control, wherein configuring the binding enables the GUI element to automatically display at least a subset of the steps in the test executive sequence in response to the control determining the steps in the test executive sequence during execution of the run-time operator interface application; and

Applicant respectfully submits that Grey and Stutz, taken either singly or in combination, do not teach these limitations in combination with the other limitations recited in claim 76. With respect to the limitation of configuring the binding between the GUI element and the control, the Examiner cites Col. 3, lines 16-18 of Grey. This section of Grey reads as follows:

The TestStand test executive software architecture includes operator interface programs for interfacing to various software programs. The TestStand test executive software also includes a sequence editor for editing sequences. The sequence editor and the operator interface programs interface to the test executive engine, referred to as the TestStand Engine. One or more process models couple to the TestStand Engine. The TestStand Engine interfaces through an adapter interface to one or more adapters. The adapters in turn interface to code modules and sequence files. (Col. 3, lines 12-22)

The cited portion of Grey simply describes various components of the TestStand test executive software and their relationship with each other. Grey clearly does not teach the above-recited limitations of claim 76. Applicant respectfully submits that Stutz also fails to teach these limitations, nor does the combination of Stutz with Grey remedy this deficiency. Thus, Applicant respectfully submits that claim 76 is patentably distinct over the cited references for at least this reason.

Furthermore, claim 76 also recites:

executing the run-time operator interface application, wherein said executing comprises the control executing to automatically determine the steps in the test executive sequence, wherein the binding between the GUI element and the control causes the GUI element to automatically display at least a subset of the steps in response to the control determining the steps, wherein the GUI element displays the at least a subset of the steps in the graphical user interface of the run-time operator interface application during execution of the run-time operator interface application.

Applicant respectfully submits that Grey and Stutz, taken either singly or in combination, also fail to teach these further limitations of claim 76 in combination with

the other recited limitations. With respect to these limitations the Examiner cites Col. 4, lines 4-5 and FIG. 4. However, the cited section of Grey reads as follows:

The TestStand test executive system of the present invention includes various types, including step types, custom named data types, and standard named data types. A type can thus be a data type or step type. For each type that a file uses, the TestStand system stores the definition of the type in the file. More specifically, when a user creates a type in the test executive system, the user creates the type using a graphical user interface (GUI) and assigns a name to the type. The user may also assign version data to the type and/or the system may apply a timestamp or other version data to the type. When the user later stores a step or data of the at least one type in a file, the TestStand Engine automatically stores a type definition of the type in the file in response. (Col. 3, lines 35-47)

When the user loads a file which includes a stored type, the method of the present invention executes to perform conflict resolution. Here presume that the user loads a file with at least one type wherein the file preferably stores a type definition of the loaded type, e.g., a data type or step type. In response to the user loading the file, the TestStand Engine automatically determines the type being loaded, and then automatically determines if the loaded type conflicts with one or more previously loaded/registered types. This determination includes comparing the type being loaded with the previously loaded/registered types in the system. (Col. 3, line 66 – Col. 4, line 8)

Thus, the cited section of Grey is not related to the execution of a run-time operator interface application. Instead, this section of Grey relates to a user opening a sequence file and the TestStand engine determining whether types being loaded conflict with previously loaded/registered types. Grey says nothing at all about any of the above actions being performed during execution of a run-time operator interface application. Furthermore, Grey also teaches nothing at all regarding the recited limitations of, “wherein the binding between the GUI element and the control causes the GUI element to automatically display at least a subset of the steps in response to the control determining the steps, wherein the GUI element displays the at least a subset of the steps in the graphical user interface of the run-time operator interface application during execution of the run-time operator interface application.” Applicant respectfully submits that Stutz also fails to teach these limitations, nor does the combination of Stutz with Grey remedy this deficiency. Thus, Applicant respectfully submits that claim 76 is patentably distinct over the cited references for at least this further reason.

Claims 94 and 95

Amended independent claim 94 recites in pertinent part:

configuring a binding between the GUI element and the control, wherein configuring the binding enables the GUI element to automatically display the report in response to the control generating the report during execution of the run-time operator interface application;

Applicant respectfully submits that Grey and Stutz, taken either singly or in combination, do not teach these limitations in combination with the other limitations recited in claim 94. With respect to the limitation of configuring the binding between the GUI element and the control, the Examiner cites Col. 3, lines 16-18 of Grey. As discussed above, this section of Grey simply describes various components of the TestStand test executive software and their relationship with each other. Grey clearly does not teach the above-recited recited limitations of claim 94. Applicant respectfully submits that Stutz also fails to teach these limitations, nor does the combination of Stutz with Grey remedy this deficiency. Thus, Applicant respectfully submits that claim 94 is patentably distinct over the cited references for at least this reason.

Furthermore, claim 94 also recites:

executing the run-time operator interface application, wherein the run-time operator interface application executes to invoke execution of the test executive sequence, wherein the execution of the test executive sequence produces the one or more results, wherein the control automatically generates the report summarizing the one or more results of the execution of the test executive sequence in response to the execution of the test executive sequence, wherein the binding between the GUI element and the control causes the report to be automatically displayed by the GUI element in response to the control generating the report, wherein the GUI element displays the report in the graphical user interface of the run-time operator interface application during execution of the run-time operator interface application.

Applicant respectfully submits that Grey and Stutz, taken either singly or in combination, also fail to teach these further limitations of claim 94 in combination with the other recited limitations. With respect to these limitations, the Examiner cites Col. 7, lines 18-24. Grey teaches here that:

In the preferred embodiment, the user invokes execution of the process model, and during execution of the process model the process model operates to call the test sequence file. The user preferably begins execution of the process model through a graphical user interface, such as through a menu. (Col. 7, lines 19-24).

Thus, the cited portion of Grey relates to execution of a process model, where the process model operates to call the test sequence file. In contrast, claim 94 recites, “executing the run-time operator interface application, wherein the run-time operator interface application executes to invoke execution of the test executive sequence”. A process model is not at all the same as a run-time operator interface application. (See FIG. 2, where Grey shows that operator interface programs 202 are different than a process model 222.)

With respect to the limitations of, “wherein the binding between the GUI element and the control causes the report to be automatically displayed by the GUI element in response to the control generating the report,” the Examiner cites FIG. 50 of Grey, which illustrates a result generated by execution of a test executive sequence, where the result is displayed in an Execution window. (Col. 61, lines 22-23). However, Grey does not teach that the result is displayed in a GUI element in response to the control generating the report during execution of a run-time operator interface application, where the GUI element displays the report in the graphical user interface of the run-time operator interface application during execution of the run-time operator interface application. Applicant respectfully submits that Stutz also fails to teach these limitations, nor does the combination of Stutz with Grey remedy this deficiency. Thus, Applicant respectfully submits that claim 94 is patentably distinct over the cited references for at least this further reason.

Inasmuch as claim 95 recites similar limitations as claim 94, Applicant respectfully submits that claim 95 is also patentably distinct over the cited references for reasons similar to those discussed above.

Section 103 Rejections

Claims 96-114 were rejected under 35 U.S.C. 103(a) as being unpatentable over Stutz in view of Grey. Applicant respectfully traverses these rejections.

As the Examiner is certainly aware, “To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)” as stated in the MPEP §2142.

As held by the U.S. Court of Appeals for the Federal Circuit in *Ecolochem Inc. v. Southern California Edison Co.*, an obviousness claim that lacks evidence of a suggestion or motivation for one of skill in the art to combine prior art references to produce the claimed invention is defective as hindsight analysis. Furthermore, the showing of a suggestion, teaching, or motivation to combine prior teachings “**must be clear and particular. . .Broad conclusory statements regarding the teaching of multiple references, standing alone, are not ‘evidence’.**” *In re Dembiczak*, 175 F.3d 994, 50 USPQ2d 1614 (Fed. Cir. 1999) (emphasis added). The art must fairly teach or suggest to one to make the specific combination as claimed. That one achieves an improved result by making such a combination is no more than hindsight without an initial suggestion to make the combination.

Applicant respectfully submits that there is no clear and particular teaching or suggestion in the prior art for combining Grey and Stutz and that the proposed combination is no more than hindsight on the part of the Examiner. With respect to the independent claims 96, 113, and 114, the Examiner asserts that it would have been obvious to combine Grey with Stutz because the development environment disclosed by Stutz, “provides ‘an improved method ... for dynamically generating object connections’”. Applicant respectfully submits that this does not amount to a clear and particular teaching to combine the references, but instead is a broad conclusory statement. In particular, this statement pertains to a broad statement of advantages in Stutz’s

Summary (Col. 8, lines 14-17) but says nothing at all about the functionality taught by Grey.

Applicant thus respectfully submits that the Examiner has not established a case of *prima facie* obviousness for at least the reasons set forth above and that claims 96-114 are patentably distinct over Stutz and Grey.

CONCLUSION

In light of the foregoing amendments and remarks, Applicant submits the application is now in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above-referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. The Commissioner is hereby authorized to charge any fees which may be required or credit any overpayment to Meyertons, Hood, Kivlin, Kowert & Goetzel P.C., Deposit Account No. 50-1505/5150-77400/JCH.

Also filed herewith are the following items:

- ☒ Request for Continued Examination
- ☐ Terminal Disclaimer
- ☐ Power of Attorney By Assignee and Revocation of Previous Powers
- ☐ Notice of Change of Address
- ☐ Other:

Respectfully submitted,

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